

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-220941

DATE: June 11, 1986

MATTER OF: John L. Duffy

- DIGEST:**
1. Employee who traveled by a longer route and did not travel 300 miles per day in connection with a permanent change of station explains that the route and delay resulted from his wife's illness. The agency may reimburse the employee on the basis of the mileage and time claimed if they determine that the employee has explained to their satisfaction the reasons for the alternate route and delay.
  2. An agency is responsible for determining the reasonableness of meal and miscellaneous expenses claimed during a temporary quarters subsistence expense period. The medical condition of a transferred employee's wife should be taken into account to the extent restaurant meals were required and criteria used to determine reasonableness of expenses based on restaurant meals rather than meals taken in the temporary lodging was appropriate.
  3. Indications that a transferred employee's wife was ill prior to their occupancy of temporary quarters does not preclude the possibility that the subsequent extension of authority to stay in temporary quarters was precipitated by circumstances occurring during the initial period as the regulations require. An extension documented some time after the fact based upon an assertion of timely verbal approval will support payment for the additional temporary quarters subsistence allowance period.

This decision is in response to a request from the Department of Health and Human Services<sup>1/</sup> for our decision

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<sup>1/</sup> The request, dated October 15, 1985, was sent by Robert A. Carlisle, an authorized certifying officer in HHS' Region X, Seattle, Washington.

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concerning payment of several claims contained in a reclaim voucher submitted by John L. Duffy, an employee of the Public Health Service. Payment of the amounts claimed is not precluded by our decisions but the agency must determine, based on the facts and circumstances involved, whether and to what extent reimbursement should be authorized.

#### FACTS

On August 6, 1984, Mr. Duffy was issued a travel order incident to a permanent change of station from San Francisco, California, to Seattle, Washington. The travel order authorized mileage, per diem, and 60 days' temporary quarters subsistence allowance for himself and his family.

Mr. Duffy and his family traveled by privately-owned automobile August 13 through August 17, 1984. In Seattle, they occupied temporary quarters from August 18 through October 29--a total of 73 days.

In April 1985, Mr. Duffy submitted his change-of-station travel voucher and in May 1985, the responsible financial management office disallowed various parts of the claims submitted. Mr. Duffy subsequently submitted a reclaim voucher requesting payment of the amounts previously denied. This voucher was forwarded to us for consideration.

#### En Route Travel Expenses

Mr. Duffy's claim for expenses incident to his trip from San Francisco to Seattle is computed on the basis of 4 days per diem allowance and mileage for a 900-mile trip. He states that his wife's illness required them to take a longer-than-normal route, and also caused them to travel less than an average of 300 miles per day.

The financial management official disallowed a part of his claim for mileage, stating that the regularly traveled distance between San Francisco and Seattle is 800 miles. Part of the claimed per diem allowance was disallowed on the basis that a government traveler performing change-of-station travel is required to travel an average of 300 miles per day.

Under Chapter 2, Part 2 of the Federal Travel Regulations (FTR), a transferred employee is entitled to transportation between his old and new duty stations in accordance with the provisions of FTR Chapter 1. For authorized travel by privately-owned vehicle FTR, para. 1-4.1, provides that the basis for a mileage payment shall be the distance shown in standard highway mileage guides. Any substantial deviation from distances shown in the standard highway mileage guides shall be explained. In addition, FTR Chapter 1, Part 2, para. 1-2.5, provides that all travel shall be by a usually traveled route unless it is satisfactorily established that travel by a different route is a matter of official necessity.

Concerning the number of days of per diem which may be authorized for a given trip, FTR, para. 2-2.3(d)(2) provides the per diem allowances will be paid on the basis of the actual time used to complete the trip, but that the minimum driving distance per day of not less than 300 miles shall be prescribed as reasonable. Exceptions to that requirement may be authorized by an agency based on circumstances beyond the employee's control and acceptable to the agency. As an example of an acceptable reason is travel by a physically handicapped employee. See also Steve Stone, 64 Comp. Gen. 310 (1985).

The employee explained that the use of the longer coastal route was to avoid the heat over the shorter inland route which would have been harmful to his wife for medical reasons. In a note on a copy of the Travel Voucher Adjustment Notice he indicates further that his wife was ill with a miscarriage possible.

Although we have not previously authorized deviations from the direct route because of the medical condition of a member of the family in permanent change-of-station cases, we have not precluded consideration of this factor in determinations made under paragraphs 1-4.1 and 2.2-3d(2) FTR. Therefore, if the agency finds that the employee has satisfactorily explained the excessive mileage and given an acceptable explanation of his failure to travel an average of 300 miles a day, we would not question payment on that basis.

In this case it appears that the agency has not approved the excess mileage or time on the basis of the employee's explanation to date. If this matter is reconsidered and a determination made that the excess distance and time were justified, payment on that basis would not be precluded by our decisions.

#### Temporary Quarters Expenses

Mr. Duffy's claim for expenses incident to his first 60 days in temporary quarters included \$3,598.40 for meals; \$199 spent in coin-operated laundry facilities; and \$1,720 for lodging expenses. He explained that it was necessary for his family to take nearly all of their meals in restaurants because of his wife's illness.

The agency limited the amount reimbursable for non-lodging (i.e. meals and laundry) expenses to 49 percent of the maximum subsistence allowance established in Chapter 2, Part 5 of the Federal Travel Regulations. The reduced allowance was based on the principle that expenses for lodging should constitute the major portion of the total expenses incurred. The finance officer indicates that the impact Mrs. Duffy's physical condition may have had on the expenses incurred was not considered.

We have repeatedly held that an employee is entitled to reimbursement for only reasonable expenses incurred incident to a temporary duty assignment since travelers are required by paragraph 1-1.3a of the FTR to act prudently in incurring expenses. In applying this requirement to claims for reimbursement for meals and miscellaneous expenses while entitled to a temporary quarters subsistence allowance we have consistently held that it is the responsibility of the employing agency to make the initial determination as to the reasonableness of the claimed expenses.<sup>2/</sup>

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<sup>2/</sup> Jesse A. Burks, 55 Comp. Gen. 1107, 1110 (1976); Charles J. Klee, B-189489, June 7, 1978; Gregory J. Abbott, B-193322, December 11, 1979; Thomas D. Voglesonger, B-196030, December 11, 1979; Eugene R. Pori, B-198523, October 6, 1980.

In considering whether an agency has acted in a reasonable manner in reducing the reimbursement for meals below the amount claimed in connection with payment of temporary quarters subsistence allowance, we have determined that the use of generally available statistical data on the cost of meals is appropriate. These cases, however, have involved claims for the cost of groceries for meals prepared at the temporary quarters. In this case the employee has said that, due to his wife's illness, they ate virtually all their meals in restaurants. Thus, the situation is similar to that involved in the payment of actual subsistence expenses for individuals on temporary duty because in those circumstances employees would be required to take meals in restaurants, generally costing more than groceries for meals consumed at temporary quarters. Accordingly, it seems appropriate that criteria used by the agency for determining reasonableness was derived from our decisions relating to reasonable meal costs for employees on temporary duty in high cost geographical areas. In those cases we have approved agency use of the criterion, derived from the Federal Travel Regulations, that lodgings should represent the major part of the subsistence allowance.<sup>3/</sup> The claimant was limited to 49 percent of the allowable maximum reimbursement for temporary quarters subsistence allowances for his family.

We have also held that the determination of the reasonableness of meal expenses should be made on a case-by-case basis taking into account the particular circumstances involved. Under that rule the illness of the spouse could be properly considered in determining reasonableness. However, it appears that this condition was adequately addressed by the agency since they applied a rule used in situations where meals are taken in restaurants and not data regarding the normal cost of groceries for meals taken in temporary quarters. Since the limitation on reimbursement to the employee was predicated upon a reasonable limitation

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<sup>3/</sup> Norma J. Kephart, B-186078, October 12, 1976; Micheline Motter and Linn Huskey, B-197621, B-197622, February 26, 1981; R. Edward Palmer, 62 Comp. Gen. 88 (1982); Charles P. Boucher, B-213021, May 2, 1984.

as applied to the particular facts involved we will not substitute our judgment for that of the agency with respect to maximum allowable for meals and miscellaneous expenses during the occupancy of temporary quarters.

Additional Time in Temporary Quarters

Mr. Duffy's voucher also contains a claim for 13 days temporary quarters allowance beyond the 60 days initially authorized. In support of his claim, he has presented to the financial management office an amendment to his travel order, signed by the same official who authorized his original travel order. The amendment, dated July 11, 1985, states that the 13 additional days of temporary quarters " \* \* \* were verbally approved by approving official prior to expiration of temporary quarters, however, due to administrative oversight the travel order was not amended at that time."

The financial management office questions the validity of this amendment on the basis of FTR, para. 2-5.2(a)(2) (Supp. 10, November 14, 1983), which states:

" \* \* \* Extensions of the temporary quarters may be authorized only in situations where there is a demonstrated need for additional time in temporary quarters due to circumstances which have occurred during the initial 60-day period of temporary quarters occupancy \* \* \* ." (Emphasis added.)

The agency refers to Mr. Duffy's memo of July 31, 1984, which apparently indicated his wife's medical condition existed prior to the time they occupied temporary quarters in Seattle. Officials in the financial management office question whether the extension was valid since FTR, para. 2-5.2 requires an extension to result from circumstances occurring during the initial 60-day period.

The fact that Mrs. Duffy's medical condition existed when the transfer orders were initially issued does not require the conclusion that subsequent events did not require the extension. There could have been a change in the spouse's condition or other outside factors which caused the original 60-day allowance to be inadequate which

occurred during the initial 60-day period. We are reluctant to assume that an otherwise valid amendment authorized by the appropriate official did not comply with the regulations.

We have noted the delay in issuing the travel order amendment authorizing the extension of the temporary quarters subsistence allowance period. Such a delay would, in most circumstances, cause questions to be raised as to whether the extension was validly given. However, in the circumstances of this case there appears to be no question that the authorizing official was aware of the facts involved at the time the temporary quarters were being occupied and approved the additional 13 days. In that connection we have consistently held that approval of extensions in temporary quarters subsistence allowance period, within the maximum prescribed by law, may be approved on a retroactive basis if the facts show that an extension was in fact approved and in keeping with agency practice.<sup>4/</sup>

Summary

For the reasons stated the Department of Health and Human Services may authorize additional reimbursement to Mr. Duffy for mileage and per diem en route to his new duty station if it is determined that the extra travel time was required by his wife's condition. The record does not support a conclusion that additional temporary quarters subsistence allowance should be paid for the time he occupied temporary quarters, but it does support an extension of the temporary quarters subsistence allowance for a period for 13 days.



Acting Comptroller General  
of the United States

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<sup>4/</sup> Gerald R. Adams, B-186549, March 7, 1977; see also, Gerald M. Anderson, B-189556, December 15, 1977; Joseph D. Argyle, B-186317, January 24, 1977.